

Supreme Court, U. S.

F I L E D

NOV 26 1976

APPENDIX

MICHAEL RODAK, JR., CLERK

IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1976

No. 75-1844

UNITED STATES OF AMERICA,

*Petitioner*

—v.—

EUGENE LOVASCO, SR.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT  
OF APPEALS FOR THE EIGHTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI FILED JUNE 21, 1976  
CERTIORARI GRANTED OCTOBER 12, 1976

IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1976

No. 75-1844

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UNITED STATES OF AMERICA,

*Petitioner*

—v.—

EUGENE LOVASCO, SR.

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT  
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**CHRONOLOGICAL LIST OF RELEVANT  
DOCKET ENTRIES**

- March 6, 1975. Indictment filed and arrest warrant issued; order filed fixing bond in the amount of \$1,000.00.
- March 10, 1975. Defendant waives reading of indictment; enters plea of not guilty to indictment; passed for trial setting; released on existing bond.
- March 12, 1975. Marshal's return of arrest warrant; executed on March 7, 1975.
- March 13, 1975. Appearance bond in the amount of \$1,000.00 filed.
- March 18, 1975. Defendant's motion to dismiss indictment filed.
- Government's response to defendant's motion to dismiss indictment filed.
- March 19, 1975. Oral argument requested on defendant's motion to dismiss indictment.
- March 21, 1975. Defendant's suggestions in reply to government's response filed.
- April 25, 1975. Defendant's motion to dismiss indictment heard, argued and submitted.
- August 8, 1975. Defendant signed waiver of indictment and consented to proceedings by information; proceedings passed to further order.
- September 8, 1975. Defendant's motion to dismiss indictment heard, argued and submitted.
- October 8, 1975. Order of the district court dismissing indictment filed.
- November 6, 1975. Notice of appeal filed.
- April 29, 1976. Order of the court of appeals filed affirming the dismissal of Counts One, Two and Three and reinstating Count Four.

May 4, 1976. Cause set for trial on May 10, 1976.

May 10, 1976. Trial continued to further order of the court.

June 21, 1976. Petition for writ of certiorari filed.

October 12, 1976. Petition for writ of certiorari granted.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

[Filed Mar. 6, 1975, William D. Rund, Clerk,  
U. S. District Court, E. District of Mo.]

No. 75-66 CR(2)

UNITED STATES OF AMERICA, PLAINTIFF

v.

EUGENE LOVOSCO, SR., DEFENDANT

The Grand Jury charges:

That on or about the 25th day of July, 1973, in the City of St. Louis, in the State of Missouri, within the Eastern District of Missouri,

EUGENE LOVOSCO, SR.

the defendant, did unlawfully have in his possession certain mail matter and an article contained therein, to wit, one Browning Arms .380 caliber semi-automatic pistol, bearing serial number 72N18184, which said mail matter had been addressed to Montgomery Ward Store No. 1555, 2875 East Charleston, Las Vegas, Nevada 89104, and had theretofore been stolen, taken and abstracted from and out of the United States mail; he, the said defendant, at the time of unlawfully having said pistol in his possession well knowing the same to have been stolen.

In violation of Section 1708, Title 18, United States Code.

—SECOND COUNT—

The Grand Jury further charges:

That on or about the 27th day of July, 1973, in the City of St. Louis, in the State of Missouri, within the

Eastern District of Missouri, EUGENE LOVOSCO, SR. the defendant, did unlawfully have in his possession certain mail matter and an article contained therein, to wit, one Browning Arms .380 caliber semi-automatic pistol, bearing serial number 72N19524, which said mail matter had been addressed to Pony Express Sport Shop, 17460 Ventura Blvd., Encino, California 91316, and had theretofore been stolen, taken and abstracted from and out of the United States mail; he, the said defendant, at the time of unlawfully having said pistol in his possession well knowing the same to have been stolen.

In violation of Section 1708, Title 18, United States Code.

—THIRD COUNT—

The Grand Jury further charges:

That on or about the 31st day of August, 1973, in the City of St. Louis, in the State of Missouri, within the Eastern District of Missouri, EUGENE LOVOSCO, SR., the defendant, did unlawfully have in his possession certain mail matter and articles contained therein, to wit, three Browning Arms .380 caliber semi-automatic pistols, bearing serial numbers 72N20174, 72N20173, 72N19984, and three Browning Arms 9 millimeter semi-automatic pistols, bearing serial numbers 73C77513, 73C78482 and 73C79681, which said mail matter had been addressed to The Sportsman, 350 North Virginia Street, Reno, Nevada 89501, and had theretofore been stolen, taken and abstracted from and out of the United States mail; he, the said defendant, at the time of unlawfully having said pistols in his possession well knowing the same to have been stolen.

In violation of Section 1708, Title 18, United States Code.

—FOURTH COUNT—

The Grand Jury further charges:

That from on or about the 25th day of July, 1973, to on or about the 31st day of August, 1973, in the Eastern District of Missouri, EUGENE LOVOSCO, SR.

did knowingly engage in the business of dealing in firearms, without having been licensed to do so under the provisions of Chapter 44, Title 18, United States Code.

In violation of Sections 922(a)(1) and 924(a), Title 18, United States Code.

A True Bill.

/s/ John Klosterhoff  
Foreman

/s/ Richard E. Coughlin  
Asst. United States Attorney



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

[Filed Mar. 18, 1975, William D. Rund, Clerk,  
U. S. District Court, E. District of Mo.]

No. 75-66 CR (2)

UNITED STATES OF AMERICA, PLAINTIFF,

vs.

EUGENE LOVASCO, SR., DEFENDANT.

MOTION TO DISMISS INDICTMENT

Comes now the defendant and moves the Court to dismiss the indictment under Rule 48 of the Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States in that:

1. The defendant was interviewed on September 26, 1973 in the presence of his attorney, and gave a statement to the Government. To defendant's knowledge, the Government has obtained no new information or witnesses relating to any of the matters presented by the Government to the defendant on September 26, 1973.

2. The Government has waited until March 6, 1975, to present the matters relating to defendant to the Grand Jury, which is a total period of approximately 18 months.

3. There has been an unreasonable delay in the presentation of this matter to the Grand Jury.

4. There was no reason or excuse for the delay by the Government in its presentation to the Grand Jury.

5. Defendant has subsequent to his statement to the agents, called an agent and asked him what was occurring. That he has experienced anxiety and concern since his statement was taken.

6. Defendant has been prejudiced by the delay in the presentment to the Grand Jury.

7. Defendant has further not waived any of his rights to a speedy trial which is granted under Rule 48 as well as the Sixth Amendment to the Constitution of the United States.

/s/ Louis Gilden

/s/ Doreen D. Dodson  
LOUIS GILDEN  
and  
DOREEN D. DODSON  
Attorneys for Defendant  
722 Chestnut Street  
St. Louis, Missouri 63101  
241-6607

PROOF OF SERVICE

The undersigned certifies that a complete copy of this instrument was served upon the attorney of record of each party to the above actually enclosing the same in envelopes addressed to the attorneys at their business address as disclosed in the pleadings of record herein, with first-class postage fully prepaid, and by depositing said envelopes in a U. S. Post Office mailbox in St. Louis, Missouri, on the 19th day of March, A.D. 1975.

/s/ Patty Gayda

[2] UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

\_\_\_\_\_  
No. 75-66CR (2)  
\_\_\_\_\_

UNITED STATES OF AMERICA, PLAINTIFF,

*vs.*

EUGENE LOVASCO, SR., DEFENDANT.  
\_\_\_\_\_

TRANSCRIPT OF PROCEEDINGS  
\_\_\_\_\_

BE IT REMEMBERED, that on the 25th of April, 1975, the following proceedings were had before

THE HONORABLE JOHN K. REGAN, JUDGE,

United States District Court, Eastern District of Missouri, Eastern Division, presiding in Court Number Two.

APPEARANCES:

The United States of America appeared by Richard Coughlin, Assistant U. S. Attorney.

The Defendant appeared by Louis Gilden, Esq.

WHEREUPON, the following proceedings were had and entered of record:

[3] THE COURT: Okay, Mr. Gilden.

MR. GILDEN: Would you mark these?

(Whereupon, Defendant's Exhibit A marked for identification as requested.)

MR. GILDEN: Your Honor, may I proceed?

THE COURT: Yes.

MR. GILDEN: Your Honor, in support of my motion I would like to file Defendant's Exhibit A which is a Post Office Department, Postal Inspector's report dated—

THE COURT: September 26, 1973?

MR. GILDEN: No, the report is dated I think in October but the statement that was taken from my client was September 26, 1973, and that is reflected in this statement that was given to me by the Government.

I have talked to Mr. Coughlin and there may be some other stipulated facts in this matter that my client Mr. Lovosco talked to Mr. Wellner of the Postal Inspector on some five or six occasions after the statement was taken by the Postal Inspector and asked questions about what the Government intended to do in the matter and expressed his interest in whether there was going to be a prosecution in the matter.

[4] The other stipulation, Your Honor, is that Mr. Coughlin has informed me that since the statement was taken on September 26, 1973, that the only additional work the—the only additional witness the Government had was in January of 1975, a witness who allegedly was offered the purchase of a gun and that said purchase did not take place. But there was another witness allegedly who was sold a gun by the Defendant. But that crime is not a charge before this Court and would not be a matter of evidence before this Court. It's not one of the allegations.

MR. COUGHLIN: Your Honor, in regard to the previous mentioned stipulations by Mr. Gilden there is only one slight difference as far as we are concerned. The three, four, five or six conversations with Mr. Wellner were not in—per se in regard to this particular case but the comments as to what is happening in my case came along afterwards.

Furthermore, as to the additional witnesses received after the date of September 26, 1973, that is true as to witnesses but not the investigation itself. That's as far as our stipulation—

THE COURT: I'm not sure what you are saying?

MR. COUGHLIN: That there were no witnesses found after that date, no additional witnesses except for one and the item referred to, although Mr. Gilden claimed that it is not going to be evidence in this case our position is that [5] it would be evidence in this case. It's an additional firearm, an additional mail matter at a previous period of time which we feel would be evidence in this case as intent, knowledge, common scheme.

EUGENE LOVOSCO, SR.

having been produced, sworn and examined on his own behalf testified as follows:

# DIRECT EXAMINATION

BY MR. GILDEN:

Q Will you please state your name?

A Eugene Lovosco.

Q And you are the Defendant in this case?

A Sir?

Q You are the Defendant in this case?

A Yes, sir.

Q Mr. Lovosco, calling your attention to the period after September 26, 1973, did you call Mr. Wellner?

A I called him several times and give him things but that's about all.

Q What did you discuss?

A Well, I asked him how things were coming out. He said he didn't know as yet, he would let me know is all the answer I would get.

[6] Q Were you concerned about it, a possible indictment?

A Very much so.

Q Were you anxious about it?

A That's right.

Q Did it affect you in any way?

A Well, I was working nights and I didn't get much sleep over it. I worried about it.

Q You were a switchman with the Terminal Railroad?

A Terminal Railroad.

Q You are retired now?

A 33 years, yes.

Q Now, since September 26, '73, sir, have any of your witnesses died, possible witnesses died?

A Yes.

MR. GILDEN: Mr. Joe Boaz, Your Honor, is listed as a possible witness for the Government here and allegedly he was a person who received some guns.

Q (Mr. Gilden) I will ask you this, Mr. Lovosco: is Mr. Joe Boaz employed by Florissant Dodge?

A That's right.

Q And was your brother employed by Florissant Dodge?

A Yes.

[7] Q Is his name Tom Lovosco?

A Yes, sir.

Q And was Tom Lovosco present during any and all transactions?

A All transactions, yes.

Q And is your brother now deceased?

A He is deceased, yes.

Q When did he die?

A April last year.

Q April of '74?

A '74.

Q He died of cancer, did he not?

A That's right.

Q And was he also a person who introduced you to Mr. Boaz?

A He introduced me to him. That's the first time I ever met him.

Q They were both car salesmen at Florissant Dodge?

A Both of them, yes.

Q Now, a Mr. Tom Stewart is he deceased at this time?

A He was a switchman, too.

Q Would he have been possibly a witness in this [8] proceeding?



A Well, I would have to say that I got some of the guns from him because I called him up on the telephone, see, from Mr. Joe Boaz's office at Florissant Dodge.

Q Now, is Mr. Stewart—is he alive or deceased?

A No, sir, he's not. He died about six months ago.

Q He died about six months ago?

A Yes, sir. He was fired from the Terminal on August the 30th—no, March the 30th, 1973, for drinking.

MR. GILDEN: I have no further questions.

### CROSS EXAMINATION

BY MR. COUGHLIN:

Q Mr. Lovosco, September 26, 1973, or thereabouts you gave a statement to Paul Wellner, is that correct?

A Sir?

Q You gave a statement to Paul Wellner, is that correct, on that date?

A That's right, sir.

Q And you have been in contact with Mr. Wellner on several occasions since that time, is that correct?

A That's right.

Q Isn't it a fact that many of these conversations involved information you had concerning possible thefts at the postal facility?

A That's right.

Q Now, you have stated that Mr. Tom Lovosco is now dead; that was your brother, is that correct?

A That was my brother.

Q Was he a witness to your attaining any of these weapons?

A No. He was a witness—he heard over the telephone that I would call up. I'd call Tom Stewart over the telephone.

Q And Mr. Tom Stewart is the man you received the guns from, is that correct?

A Sir?

Q Mr. Stewart is a man that you received guns from, is that correct?

A Yes. I believe I got two or three of them over the telephone for Joe Boaz.

Q Now, I refer you to your statement of the 26th of September, 1973. Did you at any time tell Mr. Wellner that that's where you received your weapons, from a Mr. Tom Stewart?

A No, I didn't. I was kind of afraid because this guy was a bad tomato, he was liable to take a shot at me [10] if I told him.

Q At that time you told him you received four or five Browning pistols, you found them in a sack in your unlocked automobile, is that correct?

A My car was always unlocked at 11th Street District.

THE COURT: The question was whether you told him that?

THE WITNESS: I told him that.

Q (Mr. Coughlin) And you said four or five pistols, is that correct?

A I don't know how many that was in there that was in a bag.

Q Did Mr. Wellner ever question you as to the source of your guns other than that?

A No. The only thing he asked me where I got them at. I told him they was in the back end of my automobile.

Q Didn't he allege to you that you received them from your son, Mr. Lovosco?

A Oh, yes. He mentioned my son but I didn't get them from my son.

Q Isn't it a fact that you told him that you would do anything to protect your son?

A Well, yes, if he was in trouble, sure.

[11] MR. GILDEN: That's beyond the scope of this interrogation.

MR. COUGHLIN: Your Honor, our theory of this case is that the guns came from this man's son who worked at the Post Office. This man had made a statement that he received the guns and this is the first time this statement has come up that he received the guns from somebody else. I think it is very pertinent that

this man has stated before that he will do anything to protect his son in this case.

MR. GILDEN: I think it's beyond the scope of this motion.

THE COURT: No, he may answer.

Q (Mr. Coughlin) Isn't it a fact that you made that statement, sir?

A I might have made that statement because we got into an argument with Mr. McPherson in the office up there. He called me a—well, I can't say it in here.

THE COURT: You can say it here.

THE WITNESS: He told me I was a damn liar and everything else, see?

Q (Mr. Coughlin) Are you talking about Harold McPherson?

A I don't know what his first name is. His last name is Mr. McPherson. Mr. Wellner was there during the time [12] we argued about it and he said I was protecting my son. I said I'm not but I said—we got to talking and I said don't you protect your son? He wouldn't answer me. I said well, if your son was in trouble you would back him up. He wouldn't answer me. We got in an argument and he called me a damn liar and that was the end of it.

Q Mr. Lovosco, but you did not tell Mr. Wellner the source of your guns at that time or at any other time, is that correct?

A That's right. The only thing I told him I found those guns in the car.

MR. COUGHLIN: That is all I have of this witness, Your Honor.

THE COURT: Well, is it a fact you didn't find them in your car?

THE WITNESS: I did, yes, sir. A bag full of them in the car and the other two I got from Tom Stewart—two or three whichever that might have been. And Joe Boaz bought them over the telephone.

THE COURT: You are charged with—

THE WITNESS: About eight of them I believe on that paper that I had. Six at one time.

THE COURT: There is only four counts here. One is a Browning .380 that was bound for Montgomery Ward. [13] Another one was going to Pony Express Sport Shop in Encino. And the next one, three Browning semi-automatic pistols—

MR. GILDEN: There are eight altogether. Count three contains six, Your Honor, plus the two, one each in count one and count two.

THE COURT: Of course, how would any of that have to do with the fourth count, Louie?

MR. GILDEN: It wouldn't have. I think the fourth count is independent of the other three counts.

THE COURT: I mean if I were to dismiss.

MR. GILDEN: I agree, I think the fourth count would not stand by itself.

THE COURT: Step down.

(Witness excused.)

THE COURT: Do you have any other witnesses?

MR. GILDEN: No further witnesses.

THE COURT: You have any witnesses, Mr. Coughlin?

MR. COUGHLIN: Yes, Your Honor, I will.

[14]

G. P. WELLNER

having been produced, sworn and examined on behalf of the Government, testified as follows:

# DIRECT EXAMINATION

BY MR. COUGHLIN:

Q Would you state your name, sir?

A G. P. Wellner.

Q And what is your business or occupation?

A Postal Inspector.

Q And you are the case agent in the case of United States versus Eugene Lovosco, Sr., is that correct?

A That's correct.



Q And you have been the case agent from the beginning of this case, is that correct?

A Yes, sir.

Q And what was the date you talked to Mr. Lovosco concerning this case the first time?

A September 26, 1973.

MR. COUGHLIN: Would you mark these?

(Whereupon, Government's Exhibits 1, 2 and 3 marked for identification as requested.)

[15] Q (Mr. Coughlin) Mr. Wellner, since that date on how many occasions have you had an opportunity to talk to Mr. Lovosco?

A On several occasions.

THE COURT: What does several mean?

THE WITNESS: I would say approximately five to six occasions he has called by office.

Q (Mr. Coughlin) And during these occasions—at your office or on the phone?

A At the office on the phone, by phone at the office.

Q Let me show you what has been marked Government's Exhibit Number 1, 2 and 3. I will ask you if you have ever seen those items before?

A Yes, I have.

Q And what are those items?

A These are canceled personal checks payable to Gene Lovosco by Joe L. Boaz, Jr.

THE COURT: By whom?

THE WITNESS: Joe L. Boaz, Jr. The checks are dated July 26, July 31, and this last check is—apparently bears a date of August 31. It has had some manipulation on it.

Q (Mr. Coughlin) It has had some manipulation of that particular check, is that correct?

[16] A Yes.

Q First of all, where did you receive those items?

A I received these from Joe L. Boaz, Jr.

Q To your knowledge has Mr. Lovosco ever seen those items?

A I believe during our interview with Mr. Lovosco these checks were shown and the subject was brought up

anyway and at that time he stated that some of the checks went to his son; his son cashed some of the checks I believe is correct.

Q Now referring to the endorsement on the back of those checks, is that what you are referring to, sir?

A Yes.

Q And did he tell you what his son's name was?

MR. GILDEN: Your Honor, I don't understand the line of interrogation. We are not trying a lawsuit unless he can tie it up with the motion.

THE COURT: I don't know what it is either but let's find out.

Q (Mr. Coughlin) Are you familiar with the name of Mr. Lovosco's son?

A Yes, sir.

Q And what is his name, sir?

A Gene Lovosco.

Q And to your knowledge do you know where Gene [17] Lovosco works, sir?

A Yes, sir.

Q And where does he work?

A He works for the Terminal Railroad Association.

Q Now, as far as the guns are you familiar with the guns alleged in this indictment?

A Yes, sir.

Q Do you have any knowledge through your investigation as to where these guns were stolen from?

A Where they were possibly stolen?

Q Possibly stolen.

A Yes.

Q Where would that be?

A In the normal course of handling at the Terminal Railroad Association.

Q Now, Mr. Wellner, during the period of time you had talked with Mr. Lovosco has he at any time given you any further information as to the source of his weapons?

A Subsequent to our—

Q Subsequent to September 26, 1973.

A No, sir.

Q Now, the conversations that you have had with him since that date, do they deal strictly with the allegations contained in this particular indictment?

[18] A No, sir.

MR. COUGHLIN: That is all I have of this witness.

### CROSS EXAMINATION

BY MR. GILDEN:

Q Mr. Wellner, did he ever tell you that he wanted to know what was going to happen with respect to his statement to you?

A Yes, he did.

Q And did he express concern over that to you?

A Yes, sir.

Q Mr. Wellner, you have seen Defendant's Exhibit A which is your report, have you not?

A Yes, I have.

Q Now, subsequent to October 2, 1973, have you gained any new information relating to Mr. Lovosco, any matters concerning him? This Mr. Lovosco here.

A Subsequent to—

Q October 2, 1973?

A Yes, sir.

Q What did you receive?

A Information was received that an individual was arrested in Texas with possession of a Sterling .22 caliber [19] pistol. Subsequent investigation disclosed that this pistol had been sold in a barber shop in Bellefontaine, Missouri, by a Mr. Lovosco to a dentist. An interview of this dentist disclosed this information.

Q When did you receive that information, do you know?

A The early part of March.

Q Of this year?

A Yes.

Q March of this year. Sir, calling your attention to the period October 2, 1973, did you at that time recommend presenting the matter to the Grand Jury related to Mr. Lovosco, Sr.?

A I submitted the information to the United States Attorney.

Q And did you supply any supplemental material to the U.S. Attorney besides Defendant's Exhibit A for presentation to the Grand Jury?

A I recall that there was checks attached to that.

Q Well, look at that. There are checks attached I believe. I'm not sure but I thought there was. If they are not then I'm sorry. I don't have the checks but there would be checks in addition to your statement.

A Yes.

[20] Q But they would have been the product of this investigation dated October 2, 1973, is that correct?

A Yes, sir.

Q And you would have submitted this entire report and you did to the U.S. Attorney, did you not?

A That is correct.

Q And have you supplied any supplemental material to him other than this report entitled Defendant's Exhibit A plus the checks that would be supportive of your investigation?

A Nothing in written form.

Q Now, would it be fair to say, Mr. Wellner, that without this evidence that you received in March of '75 you would have still recommended the prosecution of this matter and presentation to the Grand Jury?

A Without the evidence?

Q That you received in March of this year, this additional gun that you said was found in Texas.

A Would I have still recommended—

Q Yes.

MR. COUGHLIN: Your Honor, I might stipulate to this. This matter was on the docket for the Grand Jury before we received this information. We were going to the Grand Jury without that information.

[21] THE COURT: In March?

MR. COUGHLIN: In March. I received the information the morning of the Grand Jury itself; therefore we had gone to the Grand Jury.

MR. GILDEN: I have no further questions.



## REDIRECT EXAMINATION

BY MR. COUGHLIN:

Q Very briefly, Mr. Wellner. You have dealt with Mr. Adelman and myself concerning this case from the U.S. Attorney's office, is that correct?

A That's correct.

Q On how many occasions have you been to discuss this case with us?

A I would say four or five occasions.

Q Now, this particular case as to these particular weapons involves other individuals, does it not?

A That is correct.

Q And to your knowledge has any information been presented to the Grand Jury in regard to this case other than the indictment, the day of the indictment itself?

A This one passed most recent indictment?

Q The most recent indictment?

A Yes, there was.

[22] Q And we have discussed this on several occasions, is that not correct?

A That is correct.

MR. COUGHLIN: That is all I have.

MR. GILDEN: I have no further questions.

THE COURT: Step down.

(Witness excused.)

THE COURT: Is that all the information?

MR. GILDEN: That's all I have.

MR. COUGHLIN: That is all the Government has at this time.

THE COURT: It will be submitted.

DEFENDANT'S HEARING EXHIBIT A  
POST OFFICE DEPARTMENT  
POSTAL INSPECTOR  
Saint Louis, Missouri 63166

G. P. Wellner  
Inspector

Case No. 3543652-SD(P)

October 2, 1973

SAINT LOUIS, MISSOURI: Violation Title 18, Section 1708, United States Code, by Martin Richard Koehnken, Joe L. Boaz, Jr., and Eugene Lovasco, Sr., for possession of stolen mail matter.

Honorable James E. Reeves  
United States Attorney  
Eastern District of Missouri  
1114 Market Street  
Saint Louis, Missouri 63101

Attention: Mr. David W. Harlan  
First Assistant United States Attorney

Dear Mr. Reeves:

Herewith are particulars relating to the possession of stolen mail matter as discussed with Mr. Harlan on September 28, 1973. Mr. Harlan requested that this letter be submitted giving full details for consideration of prosecution.

NAME OF OFFENDER: Eugene Lovasco, Sr.

ALIAS: None

DATE OF BIRTH: July 16, 1910

RACE: Caucasian

ADDRESS: 1123 Astoria Drive, Saint Louis,  
MO 63137

OCCUPATION: Switchman, Terminal Railroad Association

PLACE OF OFFENSE: Saint Louis, Missouri

ACCOMPLICES: Joe L. Boaz, Jr., Martin Richard Koehnken and David L. Northdruff

DATES OF OFFENSE: On various dates between July 26 and September 11, 1973.

NATURE OF OFFENSE: Possession of stolen mail matter, to wit, eight Browning Arms hand guns mailed by Browning Arms Company, Arnold, Missouri, on July 25, July 27, and August 31, 1973. Mailing particulars and serial numbers of hand guns contained in each insured parcel will be shown under Details of Offense.

#### DETAILS OF OFFENSE

On August 20, 1973, ATF Special Agent Clark M. Young purchased a Browning .380 caliber semi-automatic pistol bearing Serial No. 72N19524 from David L. Northdruff, 8628 Park Crestwood Apartments, Crestwood, Missouri, for \$100.00 cash. Northdruff is a salesman for Don Essen Chevrolet Company, Manchester, Missouri. Contact with Browning Arms Company disclosed this pistol was contained in a parcel mailed under Insured No. 7314339 on July 27, 1973, and was addressed to Pony Express Shop, 17460 Ventura Blvd., Encino, California. Contact with the addressee disclosed that the pistol was not contained in the parcel upon receipt. Subsequent interview of Northdruff by AFT Agents disclosed that he had purchased this firearm from Martin Richard Koehnken on August 5, 1973.

On August 23, 1973, ATF Special Agents Haro'd K. McPherson and James K. Watkins purchased a Browning Arms .380 caliber semi-automatic pistol bearing

Serial No. 72N18184 from Martin Richard Koehnken for \$135.00 cash. Koehnken was also a salesman for Don Essen Chevrolet Company, Manchester, Missouri. Contact with Browning Arms Company disclosed that this pistol was contained in a parcel mailed under Insured No. 7314138 on July 25, 1973, and was addressed to Montgomery Ward Store, 2875 East Charleston, Las Vegas, Nevada. Contact with the Montgomery Ward Store disclosed that this pistol has not been received.

On September 5, 1973, Special Agents McPherson and Watkins purchased a Browning .380 caliber semi-automatic pistol bearing serial number 72N29174 for \$135.00 and one Browning 9 millimeter semi-automatic pistol bearing serial number 73C78482 for \$155.00. On September 11, 1973, Special Agents McPherson and Watkins seized two Browning 9 millimeter semi-automatic pistols bearing serial numbers 73C79681 and 73C77513 and two .380 caliber semi-automatic pistols bearing serial numbers 72N19984 and 72N20173 incident to the arrest of Martin Richard Koehnken for unauthorized dealing of firearms without obtaining a Federal Firearms License. Contact with Browning Arms Company disclosed that the pistol's recovered from Koehnken on September 5 and 11, 1973, were contained in a parcel mailed under Insured No. 7318111 on August 31, 1973, to The Sportsman, 350 North Virginia, Reno, Nevada. This insured parcel was never received by the addressee.

On September 12, 1973, Martin Richard Koehnken appeared before the United States Magistrate at Saint Louis, Missouri, on a charge of violation of Title 18, United States Code, Section 922(A)(1). Koehnken entered a plea of guilty on September 28, 1973, in United States District Court to a charge of dealing in firearms without a Federal Firearms Permit.

Subsequent to Koehnken's apprehension, investigation disclosed that he had purchased the eight firearms from Joe L. Boaz, Jr. Boaz was interviewed on September 24, 1973. He was advised of his Rights under Miranda and signed the standard warning and waiver form. Boaz



readily admitted that he had purchased the eight pistols from Eugene Lovosco, Sr., on various dates between July 26 and September 11, 1973. Boaz admitted that he knew these guns were "hot" and that he had sold them to Martin Richard Koehnken. Boaz denied any monetary gain in the transactions. Transmitted with this report is a copy of a sworn statement submitted by Boaz together with photocopies of four cancelled checks payable to Lovosco in payment of the handguns.

Eugene Lovosco, Sr., was interviewed on September 26, 1973, in the presence of his attorney, Louis Gilden. Lovosco stated that he was a Switchman for the Terminal Railroad Association. Lovosco stated that about September 1, 1973, he had visited his son, Eugene, Jr., a Mail Handler at the Clark Avenue Mail Facility of the Terminal Railroad Association. After completing the visit, he returned to his unlocked automobile and found a sack containing four or five Browning pistols. He alleged that some unknown person had apparently placed them there while he was visiting his son. He kept the pistols for a few days and then sold them to Joe Boaz. Lovosco denied selling all eight pistols to Boaz. Lovosco admitted that three of the cancelled checks payable to him by Joe Boaz bearing dates of July 26, July 31, and August 31, 1973, represented partial payment of pistols. Lovosco would not have access to the aforementioned insured parcels in the normal course of his duties as a switchman.

Eugene Lovosco, Jr., was interviewed on September 26, 1973. He stated that he had no knowledge that his father was dealing with Browning handguns. He admitted endorsing and cashing three of the aforementioned Boaz checks which he explained was at his father's request. Eugene Lovosco, Jr., is employed as a Mail Handler at the Clark Avenue Facility and would have access to the insured parcels in the normal course of his duties. He denied any responsibilities for the theft of these parcels. There is no evidence at this time that he is responsible for the depredations.

## PERSONAL AND CRIMINAL HISTORY

Eugene Lovosco, Sr., was born on July 16, 1910, at Saint Louis, Missouri. He is married and has three adult children. He has an eighth grade education and has been continuously employed by the Terminal Railroad Association since August 16, 1943. He denied any prior arrest record.

Joe L. Boaz, Jr., is 29 years of age, married and lives at 2460 Furlong, Florissant, Missouri. He is employed as a salesman for Florissant Dodge and reported that he was a part-owner of the Image Lounge, 26 Wildwood Plaza, Saint Louis, Missouri.

## WITNESSES AND THEIR TESTIMONY

Robert Clark, General Manager, Browning Arms Company, Route 1, Arnold, Missouri, telephone number AT 7-6800, can produce company records to show that the aforementioned parcels and contents were entered into the United States Mail at Arnold, Missouri.

Postal employees S. Connell and R. Keitz, Arnold, Missouri Post Office, can testify that the three aforementioned insured parcels were receipted for by the United States Postal Service.

Special Agents Harold K. McPherson, James Stabile, and Clark Young, Alcohol Tobacco and Firearms, Bureau of the Treasury Department, telephone number 622-5563, can testify to the information contained in this report.

Postal Inspectors J. D. Nichols and G. P. Wellner, 1720 Market Street, Saint Louis, Missouri, telephone number 622-5581, can testify to the information contained in this report.

## EXHIBITS

1. Browning Arms Company invoice numbers 73864, 87008, and 105981 contain information regarding the insured numbers and serial numbers of the aforementioned handguns.

2. Sworn statement of Joe L. Boaz, Jr., dated September 24, 1973.
3. Cancelled checks of Joe L. Boaz, Jr., payable to Eugene and Gene Lovosco for payment of the handguns.
4. PS Forms 3877-A, Receipt of Insured Mail, for the three insured parcels completed by Postal employees of the Arnold, Missouri Post Office.
5. Eight Browning handguns bearing serial numbers described under Details of Offense.

Photocopies of Exhibits 1 through 4 are transmitted with this report. The Browning handguns are presently in the possession of ATF Agent Harold L. McPherson but will be made readily available upon request.

If I can be of further assistance in this case, please feel free to contact me at telephone number 622-5581.

Sincerely,

/s/ G. P. Wellner  
G. P. WELLNER  
Postal Inspector

# SUPREME COURT OF THE UNITED STATES

No. 75-1844

UNITED STATES, PETITIONER

v.

EUGENE LOVASCO, SR.

ORDER ALLOWING CERTIORARI  
Filed October 12, 1976

The petition herein for a writ of certiorari to the United States Court of Appeals for the Eighth Circuit is granted.